IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.4657 of 2007
[Ramrao P. Kankirad Vs. Sudhir S. Rithe]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. P.S. Patil, Advocate for the petitioner.
Mrs. Anjali Joshi, Adv., for respondent.

CORAM : A.H. JOSHI, J.

DATE : 26th November,2007.

1. Heard.

2. The Original Defendant is aggrieved by the Judgment and Order passed below Exh.5 in Regular Civil Appeal No. 57 of 2007.

3. He claims that he is in possession of the suit property. According to him, though, admittedly, a sale-deed is executed in favour of the plaintiff, it is nominal being by way of security. According to him, the loan amount of Rs.1,50,000-00 was repaid. Learned Advocate could not explain as to how when the loan was repaid on 5th June, 2005, that till 13th July, 2006, when the plaintiff filed a suit, how could

he acquiesce to getting the reconveyance done either by inter viva voce or by filing a suit. Even the petitioner is not able to demonstrate any step taken by him towards the said object. The learned Advocate has placed fervent reliance on the Judgment of Trial Court without adverting to the fact that the said Judgment is under scrutiny before the Appellate Court, the Appellate Court was de novo scrutinizing the merit of case and as to what appeared prima facie while hearing application [Exh.5].

4. The petitioner is not in a position to put a finger on a particular finding of the First Appellate Court which is fully impermissible or perverse and hence unavailable to reach by the Appellate Court while allowing Exh.5.

5. In these premises, only conclusion, that has to follow, is that the petition has no merit, and deserves to be dismissed.

6. Petition is accordingly dismissed.

7. Parties are free to apply to the Appellate Court for early disposal of the appeal.

Judge

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